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September 25, 2024

VIA ELECTRONIC AND CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Honorable Michael Regan
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave NW
Washington, DC 20460

**Re: Notice of Intent to Sue Pursuant to 42 U.S.C. § 7604(b)(2) for
Failure to Issue Decision on Small Refinery Hardship Petition
Pursuant to § 7545(o)(9)(B)(iii)**

Dear Administrator Regan:

On behalf of Calumet Montana Refining, LLC (“CMR”), we submit this notice of intent to sue the Administrator of the United States Environmental Protection Agency (“EPA” or the “Administrator”) for the Administrator’s failure to perform a non-discretionary duty under the Clean Air Act (“CAA”) and to seek a court order requiring the Administrator to perform that nondiscretionary duty. 42 U.S.C. § 7604(a)(2); *id.* § 7604(b)(2). Specifically, EPA has not acted on CMR’s petition for small refinery hardship relief from the Renewable Fuel Standard (“RFS”) for the 2024 and 2025 compliance years by the statutory deadline. EPA has a non-discretionary duty to act on any petition for small refinery hardship relief within ninety (90) days of receipt of the petition. 42 U.S.C. § 7545(o)(9)(B)(iii). EPA failed to perform that non-discretionary duty when it failed to act on CMR’s 2024 and 2025 hardship petitions by September 24, 2024—90 days after CMR submitted the 2024–2025 petition on June 26, 2024. EPA’s failure to act by the statutory deadline also constitutes “agency action unlawfully withheld” and “unreasonably delayed.” 5 U.S.C. § 706(1). CMR gives notice of its intent to sue to compel that action. *Id.*

CMR urges the Administrator to decide CMR’s 2024–2025 hardship petition immediately, in order to avoid the need for litigation.



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Pursuant to 40 C.F.R. § 54.3(a), the full name and address of the person providing this notice on behalf of CMR is:

Alexandra Magill Bromer
Perkins Coie LLP
700 13th Street N.W., Suite 800
Washington, DC 20005

Sincerely,

Perkins Coie LLP

A handwritten signature in blue ink, appearing to read 'Alexandra Bromer', is written over a light blue rectangular background.

Alexandra Bromer